

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civ. No. 20-893

1B28 - THREE 308 CASINGS,
1B29 - ONE 308 CASING,
1B30 - ONE 308 CASING,
1B39 - ONE RUGER GUN CASING,
1B38 - ONE MAGAZINE,
1B36 - THREE 30-30 ROUNDS,
1B35 - TWO 30-30 ROUNDS,
1B34 - ONE 30-30 ROUND (DAMAGED),
1B33 - TWO 30-30 CASINGS,
1B32 - ONE 30-30 CASING,
1B31 - ONE MAGAZINE WITH ROUNDS,
1B3 - MAGAZINE WITH AMMUNITION,
1B1 - RUGER SR-762, SN: 562-12356
1B2 - VORTEX CROSSFIRE II 4-12.40 SCOPE
1B3 - MAGAZINE AND AMMO

Defendants-in-rem.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Plaintiff, United States of America, brings this complaint in accordance with Supplemental Rule G(2) of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions, and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action to forfeit and condemn to the use and benefit of the United States of America property involved in violations of 18 U.S.C. § 924(c)(1)(A)(i) that is subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1).

DEFENDANT *IN REM*

2. The defendant *in rem* consists of the following:

- a. 1B28 - Three 308 casings,
- b. 1B29 - One 308 casing,
- c. 1B30 - One 308 casing,
- d. 1B39 - One Ruger Gun casing,
- e. 1B38 - One Magazine,
- f. 1B36 - Three 30-30 Rounds,
- g. 1B35 - Two 30- 30 Rounds,
- h. 1B34 - One 30-30 Round (damaged),
- i. 1B33 - Two 30-30 casings,
- j. 1B32 - One 30-30 casing,
- k. 1B31 - One Magazine with Rounds,
- l. 1B3 - Magazine with Ammunition,
(hereafter referred to as “Defendant Property”).

3. The Defendant Property was seized by the Federal Bureau of Investigation on October 1, 2018, in the District of New Mexico.

4. The Defendant Property is now, and during the pendency of this action will be, in the jurisdiction of this Court.

JURISDICTION AND VENUE

5. The United States District Court for the District of New Mexico has subject matter jurisdiction under 28 U.S.C. §§ 1345, 1355(a) and 1356.

6. Venue for this civil forfeiture action is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395, as acts or omissions giving rise to the forfeiture took place in this district and the property is found in this district. Upon the filing of this complaint, the Defendant Property will be arrested by execution of a Warrant for Arrest *In Rem* in the District of New Mexico.

FACTS

7. On October 1, 2018 at approximately 11:44 a.m., Laguna Police Department received an emergency 911 call from a man on Interstate 40 near mile marker 138. Federal Bureau of Investigation (FBI) Special Agent Spaeth later spoke with the 911 caller (Witness 1). Witness 1 stated that a Jeep had cut him off, swerved from shoulder to shoulder, and headed west. The driver of the Jeep shot a firework at a tractor trailer, Witness 1 thought it may have been a roman candle. Witness 1 then saw the Jeep pull into the median and face the westbound traffic near mile marker 138 on Interstate 40. Witness 1 saw the driver of the Jeep point something at a tractor trailer, and he heard gunshots. Witness I described a driver and described the Jeep with lettering on the rear window.

8. Law enforcement officers responded to the scene and spoke with a John Doe. Doe stated that the Jeep swerved throughout both westbound lanes and prevented vehicles from passing. Doe attempted to pass the Jeep and the driver of the Jeep shot the sleeper portion of Doe's tractor trailer with a firework. The Jeep passed Doe and brandished a confederate flag and a rifle out of the Jeep window. The Jeep passed Doe, pulled in the center median, and aimed a rifle at Doe and his vehicle. Doe ducked and heard multiple rounds strike his vehicle. A round struck the windshield causing it to break, and Doe was injured by the broken glass. Doe then stopped the tractor trailer and waited for law enforcement officers.

9. Law Enforcement determined that nine rounds had struck Doe's tractor trailer.

10. At approximately 1:15 pm, Witness 2 called the emergency line to report a suspicious black Jeep with white markings on the access road near her house on the Laguna Pueblo. Agent Spaeth responded to this location and looked over the interstate.

11. At approximately 1:31 p.m. Bureau of Indian Affairs Special Law Enforcement Commission Laguna Police Officers Keith Riley, Laguna Officer Christopher Kie Jr, and Sargent Ray Soto responded.

12. The officers located the Jeep near the water tanks on the access road and attempted to stop the Jeep using emergency lights and siren. The officers were in marked Laguna Police Department vehicles, displaying their badges, and wearing their department issued uniforms. Upon attempting to stop the Jeep, the vehicle sped up and drove into the desert. After some time the Jeep stopped.

13. The Laguna Police officers observed movement inside the Jeep. An individual, later identified as Brad Halverson, exited the driver's door with a long gun. He assumed a prone position in front of his vehicle. He then got up, leaned over the hood of the Jeep and pointed the long gun at Officer Christopher Kie Jr.

14. Sargent Soto and Officer Riley then fired their long rifles at Halverson. The officers approached Halverson and saw Halverson on the ground and a black AR style rifle approximately 10 feet away. At approximately 1:50 p.m. the officers placed him in handcuffs, rendered first aid, and called for an ambulance to respond.

15. Agent Spaeth observed a black Ruger AR style rifle on the ground in front of the Jeep, and empty rifle casings on the driver's floorboard of the Jeep. The Jeep was subsequently sealed and transported to the FBI Albuquerque division where it was placed in a secured location. The Defendant Property was located in the Jeep.

16. On April 26, 2019, Halverson entered a guilty plea *inter alia*, to using and carrying a firearm during, or in relation to a crime of violence in violation of 18 U.S.C. 924(c)(1). See D.N.M. Criminal case number 19-cr-01223, Doc. 29. In his plea agreement,

Halverson agreed to forfeit all of his right, title and interest in ammunition magazines collected from the Jeep. Doc. 29, ¶ 19. Halverson waived notice of any forfeiture proceedings involving the property. Doc. 29, ¶ 21.

FIRST CLAIM FOR RELIEF

17. The United States incorporates by reference the allegations in paragraphs 1 through 16 as though fully set forth.

18. 18 U.S.C. § 924(c)(1)(A)(i) prohibits using or carrying a firearm during, or in relation to, a crime of violence.

19. Defendant Property was involved in or used in the knowing violation of 18 U.S.C. § 924(c)(1)(A)(i) and is thus subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1).

WHEREFORE: Plaintiff seeks arrest of Defendant Property and forfeiture of same to Plaintiff, determination of the validity and priority of claims of the Claimants and any Unknown Claimants to the Defendant Property, costs and expenses of seizure and of this proceeding, and other proper relief.

Respectfully submitted,

JOHN C. ANDERSON
United States Attorney




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(505) 346-7274

28 U.S.C. § 1746 DECLARATION

I am a Special Agent with the Federal Bureau of Investigation who has read the contents of the Complaint for Forfeiture *In Rem* to which this Declaration is attached; and the statements contained in the complaint are true to the best of my knowledge and belief.

I declare under penalty of perjury and the laws of the United States of America that this Declaration is true and correct, except as to matters stated on information and belief, and as to those matters I believe them to be true.

Dated: 8/24/2020


Jordan Spaeth, Special Agent
Federal Bureau of Investigation

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

1B28 - THREE 308 CASINGS, ET.AL.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of			

IV. NATURE OF SUIT (Place an "X" in One Box Only)**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 U.S.C. § 924(d)(1)

Brief description of cause:

VI. CAUSE OF ACTION**VII. REQUESTED IN**

CHECK IF THIS IS A CLASS ACTION

DEMAND \$

CHECK YES only if demanded in complaint:

COMPLAINT:

UNDER RULE 23, F.R.Cv.P.

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/1/2020

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